

### **REMARKS**

Applicant notes that in the Supplemental Amendment dated April 9, 2008, the numbering of the claims added by that amendment was in error. Applicant inadvertently included two claims numbered 53. Applicant has corrected the error in this listing of claims. Accordingly, the second claim 53 and claims 54-62 in the April 9 Supplemental Amendment are numbered 54-63, respectively, in the above listing of claims.

Claims 27, 53, 55 and 59 have been amended. Claims 1-26 and 28-48 were previously canceled. Claims 27 and 49-63 are pending in the application.

Claim 27, 49 and 51 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2004/0144973 ("Li"). This rejection is respectfully traversed.

As amended, claim 27 recites an array of resistance variable memory cells comprising, *inter alia*, "a chalcogenide glass layer having metal ions diffused therein in contact with the first electrode and being capable of changing resistance under the influence of an applied voltage, a metal layer in contact with the chalcogenide glass layer, and a second electrode in contact with the metal layer, wherein the second electrode and metal layer comprise different materials."

Li does not disclose such elements. Li relates to forming active, doped chalcogenide layers in memory cells by using "activation energy sources... to drive [a] dopant material layer into ... chalcogenide material." (Li, ¶0027). Li discloses a memory cell consisting of a doped, active chalcogenide layer 310 between top and bottom electrodes. (Li, ¶0033, Fig. 3D). Claim 27, in contrast, necessarily requires "a metal layer in contact with the chalcogenide glass layer, wherein the second electrode and metal layer comprise different materials."

The Office Action characterizes Li's second electrode 315 as having a top portion corresponding to the presently claimed second electrode and a bottom portion corresponding to the presently claimed metal layer. (Office Action at 2). Applicant disagrees with the Office Action characterization of Li's electrode 315. To further prosecution, however, Applicant has amended claim 27 to specify that the second electrode and metal layer comprise different materials.

Claims 49 and 51 depend from claim 27 and are allowable for at least the same reasons as well as on their own merit. For at least these reasons, withdrawal of this rejection is respectfully requested.

Claim 50 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Li in view of U.S. Patent Application Publication No. 2004/0223390 ("Campbell"). This rejection is respectfully traversed.

Based on the filing date of this application, Li and Campbell qualify as a prior art reference only under § 102(e). Neither Li nor Campbell, however, are an appropriate § 102(e)/103 reference because at the time of invention, the present invention and the Li and Campbell inventions were all "owned by the same person or subject to an obligation of assignment to the same person." 35 U.S.C. § 103(c). Each of Li, Campbell and the present invention were under an obligation to assign to Micron Technology, Inc. at the time of invention, as evidenced on the face of the Li and Campbell publications and by the Assignment document filed with this application. Therefore, according to § 103(c), Li and Campbell do not preclude patentability.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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